



**US Army Corps
of Engineers®**

SPECIAL PUBLIC NOTICE

PROPOSED RE-ISSUANCE

Regional General Permit (RGP) No. 41

Removal of Invasive, Exotic Plants

LOS ANGELES DISTRICT

Public Notice/Application No.: 200301094-JMB

Comment Period: June 12 through July 11, 2003

Project Manager: Jeannette M. Baker (858) 674-5385 jeannette.m.baker@usace.army.mil

On August 15, 1996, the District Engineer, Los Angeles District Corps of Engineers issued Regional General Permit (RGP) No. 41, which authorizes the mechanized removal of invasive, exotic plants (exotics) from waters of the U.S including wetlands within the portions of California in the Los Angeles District of the Corps of Engineers (Los Angeles, Orange, Riverside, San Diego, San Bernardino, Imperial, Ventura, Santa Barbara, Mono, Inyo, and San Luis Obispo counties). This general permit was reissued on August 17, 1998 for a period of five years. This general permit has been issued under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and applies to anyone wishing to remove exotics in a manner which is consistent with the terms and conditions of this RGP. RGP 41 was originally issued on a two year trial basis and reissued for an additional five years under Public Notice 96-00094-ES. The current permit expires on August 15, 2003. The Corps is proposing to re-issue RGP 41 for a period of five years.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). Interested parties are invited to provide their views on the proposed work, which will become a part of the record and will be considered in the decision. This permit will be issued or denied under Section 404 of the Clean Water Act (33 U.S.C 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C 403). Comments should be mailed to:

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Branch - San Diego Field Office
ATTN: CESPL-CO--200301094-JMB
16885 W. Bernardo Drive, Suite 300-A
San Diego, California 92127

Alternatively, comments can be sent electronically to: jeannette.m.baker@usace.army.mil

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination- A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

Water Quality- On August 13, 1998 the State Water Resources Control Board issued a Section 401 Water Quality Certification for RGP 41. For any proposed activity on Tribal land that is subject to Section 404 jurisdiction, the applicant will be required to obtain a separate water quality certification from the U.S. Environmental Protection Agency.

Coastal Zone Management- On October 15, 1998 the California Coastal Commission concurred with the Corps of Engineers that RGP 41 is consistent with the California Coastal Zone Management Program. The District Engineer hereby requests the California Coastal Commission's concurrence or nonconcurrence with the proposal to reissue this RGP.

Cultural Resources- Activities authorized under this RGP would generally occur in active stream channels or floodplains; therefore, the Corps of Engineers believes that the proposed activities would not adversely affect historic properties listed, or eligible for listing, in the National Register of Historic Places. However, the Corps recognizes that such resources potentially occur on adjacent terraces slated for vegetation removal. Therefore, prospective permittees must investigate the potential impact of their proposed project on cultural resources and provide this information to the Corps prior to use of this RGP.

Endangered Species- Activities authorized under this RGP would occur in areas dominated by exotic, invasive plants which often provide little habitat function for federally-listed endangered or threatened species. Although rare, these areas may occasionally be used by endangered or threatened species. Other areas which contain a mixture of exotic and native plants may also support endangered or threatened species. In addition, some of the areas affected by this RGP have been designated critical habitat. Therefore, prospective permittees

must investigate the potential impact of their proposed project on federally-listed endangered or threatened species, species proposed for listing as endangered, or designated critical habitat and provide this information to the Corps prior to use of this RGP. If the Corps determines that a proposed project may affect a federally-listed endangered or threatened species or designated critical habitat, a Section 7 consultation with the U.S. Fish and Wildlife Service or National Marine Fisheries Service will be initiated.

Public Hearing- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Activity for Which a Permit is Required

The purpose of this RGP is to provide a mechanism for expedited approval of invasive weed removal projects, for the purpose of habitat recovery. Projects whose purpose is both habitat recovery and flood control would be eligible to use the RGP. The RGP would not be appropriate for use on projects whose sole purpose is flood control or removal of native vegetation. The RGP is not intended to be a planning tool; however, the Corps encourages people to begin invasive weed control efforts at the top of a watercourse to minimize reinfestation of previously treated areas. The Corps, in cooperation with The Nature Conservancy, has prepared a technical document on methods for control and management of giant reed (*Arundo donax*) and salt cedar (*Tamarix* spp.). This document is available upon request from the Los Angeles District of the Corps of Engineers.

RGP 41 This regional general permit (RGP) authorizes mechanized removal of the following invasive, exotic plants from waters of the U.S including wetlands, within the California portion of the Los Angeles District of the Corps of Engineers, for the purposes of habitat recovery (see attached map):

giant reed - *Arundo donax*
salt cedar - *Tamarix* spp.
common reed - *Phragmites australis*
tree tobacco - *Nicotiana glauca*
castor bean - *Ricinus communis*
Russian thistle - *Salsola tragus*
star thistle - *Centaurea solstitialis*
artichoke thistle - *Cynara cardunculus*
thistle - *Cirsium* spp.
pampas grass - *Cortaderia selloana*
fountain grass - *Pennisetum setaceum*
cape ivy - *Delairea odorata* (formerly called German Ivy, *Senecio mikanioides*)
alligator weed - *Alternanthera philoxeroides*
perennial pepperweed - *Lepidium latifolium*
white top, hoary cress - *Cardaria draba*
Russian olive - *Elaeagnus angustifolia*
myoporum - *Myoporum laetum*
cocklebur - *Xanthium strumarium*

In addition, the Corps is considering adding the following species to this list:

evergreen ash – *Fraxinus udhei*
Brazilian pepper – *Schinus terebinthifolius*
eucalyptus – *Eucalyptus* spp.
bottle brush – *Callistemon citrinus*

California (Peruvian) pepper – *Schinus molle*
carrotwood – *Cupaniopsis anacardioides*
Chinese elm – *Ulmus parvifolia*
oleander – *Nerium oleander*
Mexican fan palm – *Washingtonia robusta*
Canary Island date palm – *Phoenix canariensis*

For the purposes of this RGP, areas are classified as "fully infested stands" if they contain 80% or greater relative or canopy cover of exotics. Areas that contain between 50% and 80% relative or canopy cover of exotics are classified as "partially infested stands". This RGP is not applicable in areas that contain less than 50% relative or canopy cover of exotics. For a parcel to be considered a "stand" it must be at least 0.5 acre in size or completely isolated from contiguous native riparian habitat. Following flood, fire, disease, or other natural event which scours or destroys an area, the area shall be classified based on the areal coverage of exotics immediately prior to the natural disturbance.

The following activities are authorized on a year-round basis in "fully infested stands":

1. Broadcast foliar application of herbicides which are approved by the U.S. Environmental Protection Agency (USEPA) for use in wetlands and by the California Department of Pesticide Regulation for use within the State. To reduce potential impacts to migratory birds using parcels adjacent to "fully infested stands", no aircraft (e.g. helicopter) based application may occur between March 15 and September 15.
2. Mechanized landclearing, mechanical mulching (i.e. Hydro-Ax), mechanized removal, chipping, and excavation of living or dead invasive plants and any associated debris. Native riparian vegetation should be avoided to the maximum extent practicable. Any native riparian trees 3-inches DBH (diameter at breast height) or larger which are removed from fully infested stands, must be replaced on-site at a 2:1 ratio.
3. Stockpiling of invasive plants and associated debris which have been excavated, except during the flood season (November 15- April 15), when stockpiling is prohibited. Stockpiles must be placed in previously disturbed or degraded areas, cannot be placed within 50 feet of flowing water, must be placed in such a manner that it is not dispersed by currents or other forces, and must be disposed of within 3 months of initial creation of the stockpile by either removal to an appropriate upland disposal area or by burning. Prior to upland disposal or burning of any stockpiles or debris, all appropriate state and local permits must be obtained. To reduce potential impacts to migratory birds using parcels adjacent to "fully infested stands", burning cannot occur within 1,000 feet of native riparian or wetland habitat areas between March 15 and September 15.
4. Construction of access roads provided that the width and length of the road are the minimum necessary for access to the exotics removal site. Native woody riparian vegetation in the access road alignment must be flagged and avoided. Placement of fill, such as decomposed granite, gravel, or concrete, on newly constructed or existing access roads within waters of the U.S. is not authorized under this RGP. All appropriate Best Management Practices must be used to preclude increased turbidity and to ensure that road construction does not restrict or impede the passage of normal or expected high flows or cause the relocation of the water. Access roads which are no longer necessary for site monitoring, restoration, maintenance, or treatment, or abandoned access roads must be restored with appropriate native riparian or wetland vegetation.

The following activities are authorized on a seasonal basis, between September 16 and March 14, in "partially infested stands":

1. Plant-specific application of herbicides which are currently approved by the USEPA for use in wetlands. Plant specific techniques may consist of application via a backpack sprayer and/or the cut/paint technique (cutting of the plant, followed by immediate direct application of herbicide to the freshly cut stump).

No herbicide may be applied to native riparian vegetation.

2. Mechanized landclearing, mechanical mulching (*i.e.* Hydro-Ax), mechanized removal, chipping, and excavation of living or dead invasive plants and any associated debris. Native riparian vegetation must be flagged prior to commencement of any mechanized activities and must be avoided.

3. Construction of access roads provided that the width and length of the road are the minimum necessary for access to the exotics removal site. Native woody riparian vegetation must be flagged and avoided. Placement of fill, such as decomposed granite, gravel, or concrete, on newly constructed or existing access roads within waters of the U.S. is not authorized under this RGP. All appropriate Best Management Practices must be used to preclude increased turbidity and to ensure that road construction does not restrict or impede the passage of normal or expected high flows or cause the relocation of the water. Access roads which are no longer necessary for site monitoring, restoration, maintenance, or treatment or abandoned access roads must be restored with appropriate native riparian or wetland vegetation.

Broadcast foliar application of herbicide and stockpiling are prohibited in "partially infested stands". Hand clearing (including use of chain saws) is generally not subject to Corps jurisdiction under Section 404. However, if hand clearing occurs in "partially infested stands" native riparian vegetation should be flagged and avoided.

Invasive plant removal from "partially infested stands" during the migratory bird breeding season (March 15 - September 15) may be authorized by the Corps under this RGP on a case-by-case basis. Prior to requesting such authorization, the proposed project area must be surveyed by a qualified biologist in accordance with all appropriate U.S. Fish and Wildlife Service protocols. Results of these surveys must be submitted to the Corps as part of the Notification requirement.

Notification requirement - Prior to use of this RGP, prospective permittees must notify the Corps in accordance with the modified notification procedures under General Condition 16 of this RGP. A copy of the notification package should be sent to the U.S. Fish and Wildlife Service, National Marine Fisheries Service (if appropriate), California Coastal Commission (for projects which may affect the coastal zone), State Water Resources Control Board, and the appropriate Regional Water Quality Control Board.

Work may not commence until verification of compliance with this RGP is received from the Corps or thirty days have passed since the Corps receives a complete notification package. The Corps maintains discretion to add Special Conditions to RGP verifications to clarify compliance with the terms and conditions of this RGP or to ensure that the proposed project would have only minimal individual and cumulative adverse impacts to the environment. In cases where the proposed project does not comply with the terms and conditions of this RGP or the Corps determines that the proposed project would be contrary to the public interest or would result in greater than minimal individual or cumulative adverse impacts to the environment, the applicant will be notified by the Corps of Engineers within thirty days of receipt of a complete notification. Under these circumstances, an individual permit would likely be required to perform the proposed work.

Additional Information

Since its reissuance, 17 actions have been authorized under RGP 41, accounting for over 761 acres of invasive weed removal. Of these 17 actions, three were in San Diego County, six were in Riverside County, four were in San Bernardino County, two were in Orange County, one was in Los Angeles County and one was in Santa Barbara County. The Corps has not experienced any compliance problems on these 17 authorizations.

The Corps is soliciting input regarding the need to modify RGP 41 prior to its re-issuance. Suggested modifications could include changes to the list of species covered, changes to the conditions of the

authorization, changes to the notification procedure, or expansion or restriction of activities authorized under the general permit.

For additional information please call Jeannette M. Baker of my staff at (858) 674-5385. This public notice is issued by the Chief, Regulatory Branch

CORPS DISTRICTS IN CALIFORNIA

